

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA

IN RE:

BRIAN L. FERTIG,

Debtor.

Case No. 23-50130

JOHN P. FITZGERALD, III,  
ACTING UNITED STATES TRUSTEE  
FOR REGION FOUR,

Movant,

v.

BRIAN L. FERTIG,

Respondent.

Notice of Motion and Hearing

The United States Trustee has filed a Motion for Sanctions.

PLEASE TAKE NOTICE that a hearing on the forgoing Motion will be held on May 3, 2023, at 9:30 a.m. in The hearing shall be held via Zoom for Government using the following information: Meeting ID: 160 369 2643; URL: <https://vawb-uscourts-gov.zoomgov.com/j/1603692643>.

**If you do not want the Court to grant the relief requested in the motion, then, pursuant to Local Rule 9013-1, you must file a response 7 days before the hearing date. Absent a timely filed response, a proposed order will be tendered to the Court granting the relief requested in the motion and the Court may treat the motion as conceded and enter the proposed order without the necessity of holding a hearing.**

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Dated: 29 March 2023

Respectfully submitted,

Margaret K. Garber (VSB No. 34412)  
Office of the United States Trustee  
210 First Street, Suite 505  
Roanoke, VA 24011  
(540) 857-2806  
[margaret.k.garber@usdoj.gov](mailto:margaret.k.garber@usdoj.gov)

JOHN P. FITZGERALD, III,  
Acting United States Trustee for Region Four

By: /s/ Margaret K. Garber

Motion for Sanctions

Comes now the United States Trustee for Region Four and moves this court to sanction the debtors, and in support thereof, the United States Trustee states as follows:

1. This case was commenced by the filing of a voluntary petition pursuant to Chapter 13 of Title 11 on or about March 15, 2023, by Brian L. Fertig (Fertig or debtor).

2. Prior to this bankruptcy filing, the debtor filed a voluntary petition pursuant to Chapter 13 of Title 11 on April 27, 2021. The case was assigned Number 21-50231. On June 7, 2021, this case was dismissed as a result of the debtor's failure to comply with court order to file the required statement and schedules. The debtor failed to pay the required filing fee in this case.

3. Prior to this bankruptcy filing, the debtor filed a voluntary petition pursuant to Chapter 13 of Title 11 on February 4, 2020. The case was assigned Number 20-50990. On February 27, 2020, this case was dismissed as a result of the debtor's failure to comply with court order to file the required statement and schedules.

4. Prior to this bankruptcy filing, the debtor filed a voluntary petition pursuant to Chapter 13 of Title 11 on September 6, 2017. The case was assigned Number 17-50845. On September 25, 2017, this case was dismissed as a result of the debtor's failure to comply with court order to file the required statement and schedules.

5. These multiple filings and the debtor's disregard of the duties and obligations imposed upon the debtor by United States Bankruptcy Code, indicate that the current filing, at least, was made with bad faith, and is an abuse of the provisions of the Bankruptcy Code.

6. The debtor has continuously abused the bankruptcy system.

7. That said serial filings are in bad faith and are burdensome to the Court, creditors, the Clerk of U.S. Bankruptcy Court, the trustees and others.

WHEREFORE, the United States Trustee requests that this Court order the following relief:

1. That this case be dismissed.
2. That the debtor be prohibited from filing any bankruptcy petition for a period of 365 days from the date of the Order dismissing this case.
3. That all future filings be contingent upon the payment of unpaid filing fees owed to the United States Bankruptcy Court.
4. The United States Trustee requests such other relief as the Court may deem just.

Dated: 29 March 2023

Margaret K. Garber (VSB No. 34412)  
Office of the United States Trustee  
210 First Street, Suite 505  
Roanoke, VA 24011  
(540) 857-2806  
margaret.k.garber@usdoj.gov

Respectfully submitted,

JOHN P. FITZGERALD, III,  
Acting United States Trustee for Region Four

By: /s/ Margaret K. Garber

Certificate of Service

I hereby certify that a true and correct copy of the foregoing motion and notice was electronically filed on this the 29<sup>th</sup> day of March, 2023, with the United States Bankruptcy Court and that copies of this motion were mailed by first class mail to the debtor, and, if a matrix of creditors was filed by the debtor, to all of the creditors listed on the matrix as well as the trustee.

/s/ Margaret K. Garber  
Margaret K. Garber